

REMARKS

Claims 1-51 were pending in the application. In the Office Action, claims 1-17, 19-20, 42-44 and 49-51 were rejected; claim 18 was objected to; and claims 21-41 and 45-48 were allowed. Claims 14, 18, 43 and 50 have been canceled and new claim 52 has been added. Thus, claims 1-13, 15-17, 19-42, 44-49 and 51-52 remain pending in the application. Applicant respectfully requests reconsideration and favorable action in this case in view of the following.

Claims 1-20

The Examiner rejected claims 1-3, 7-9 and 13 as being unpatentable under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,184,365 issued to Stafford (hereinafter *Stafford*). The Examiner rejected claims 4-6 as being unpatentable under 35 U.S.C. §103(a) as being obvious under *Stafford* in view of U.S. Patent No. 6,038,722 issued to Giori et al. (hereinafter *Giori*). The Examiner rejected claims 10-12, 14-17 and 19-20 as being unpatentable under 35 U.S.C. §103(a) as being obvious under *Stafford* in view of U.S. Patent No. 4,005,498 issued to Starr et al. (hereinafter *Starr*) along with U.S. Patent No. 5,540,231 issued to Moy (hereinafter *Moy*). Applicant respectfully traverses the rejection of claims 1-17 and 19-20.

Claim 18 was objected to as being dependent upon a rejected base claim. Applicant thanks the Examiner for indicating that claim 18 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In order to expedite the prosecution of the present application, Applicant has amended independent claim 1 to include limitations of allowable claim 18 including any intervening claims. Claims 14 and 18 have been canceled and claims 15 and 16 have been amended to depend from independent claim 1. In view of the above, Applicant respectfully requests allowance of claims 1-13, 15-17 and 19-20.

Claims 42-44

The Examiner rejected claim 42 as being unpatentable under 35 U.S.C. §102(b) as being anticipated by *Stafford*. The Examiner rejected claims 43-44 as being unpatentable under 35 U.S.C. §103(a) as being obvious under *Stafford* in view of *Starr* along with *Moy*. Applicant respectfully traverses the rejection of claims 42-44.

In order to expedite the prosecution of the present application, Applicant has amended independent claim 42 to include the limitation “a pressure applicator coupled to one of said first and second chambers and operable to apply pressure to a cricoid cartilage of said patient” as substantially previously recited in claim 43. Claim 43 has been canceled and claim 44 has been amended to depend from claim 42.

In rejecting claim 43, the Examiner had noted that *Stafford* does not disclose a pressure applicator, that *Moy* teaches “an adjustable pressure applicator 61 that is a strap” and that the “pressure applicator could be used to apply pressure to various portions of the body”.

*Moy* discloses an apparatus and method for measuring blood pressure in which an inflatable cuff 61 is wrapped around the patient’s arm to apply pressure on the patient’s arm so that the patient’s blood pressure may be measured, see col. 5, lines 5-13 of *Moy*.

Amended independent claim 42 recites “a pressure applicator coupled to one of said first and second chambers”. It is well settled that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art, M.P.E.P. §2143.03. All words in a claim must be considered in judging the patentability of that claim against the prior art. Applicant submits that none of the applied prior art references teach or suggest coupling a pressure applicator to one of the first and second chambers of an endotracheal intubation assistance device.

It is further well settled that the prior art must suggest the desirability of the claimed invention, M.P.E.P. §2143.01. Neither the Examiner nor the references provide any motivation for combining the teachings of *Stafford* and *Moy* or the desirability of the invention recited in amended claim 42. Applicant submits that there is no teaching or suggestion in any of the applied references for coupling a pressure applicator to one of the first and second independently inflatable chambers of an endotracheal intubation assistance device as required by claim 42. Furthermore, the Office Action does not detail or even mention such desirability. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability for the combination. Applicant submits that the required suggestion is lacking.

Therefore, Applicant respectfully requests reconsideration of the rejection and requests allowance of claims 42 and 44.

Claims 49-51

The Examiner rejected claim 49 as being unpatentable under 35 U.S.C. §102(b) as being anticipated by *Stafford*. The Examiner rejected claims 50-51 as being unpatentable under 35 U.S.C. §103(a) as being obvious under *Stafford* in view of *Starr* along with *Moy*. Applicant respectfully traverses the rejection of claims 49-51.

In order to expedite the prosecution of the present application, Applicant has amended independent claim 49 to include the limitation “a pressure applicator coupled to one of said first and second platforms and operable to apply pressure to a cricoid cartilage of said patient” as substantially previously recited in claim 50. Claim 50 has been canceled and claim 51 has been amended to depend from claim 49.

In rejecting claim 50, the Examiner noted that *Stafford* does not disclose a pressure applicator, that *Moy* teaches “an adjustable pressure applicator 61 that is a strap” and that the “pressure applicator could be used to apply pressure to various portions of the body”.

*Moy* discloses an apparatus and method for measuring blood pressure in which an inflatable cuff 61 is wrapped around the patient’s arm to apply pressure on the patient’s arm so that the patient’s blood pressure may be measured, see col. 5, lines 5-13 of *Moy*.

Amended independent claim 49 recites “a pressure applicator coupled to one of said first and second platforms”. It is well settled that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art, M.P.E.P. §2143.03. All words in a claim must be considered in judging the patentability of that claim against the prior art. Applicant submits that none of the applied prior art references teach or suggest coupling a pressure applicator to one of the first and second platforms of an endotracheal intubation assistance device.

Applicant further submits that there is no teaching or suggestion in any of the applied references for coupling a pressure applicator to one of the first and second platforms of an endotracheal intubation assistance device as required by amended claim 49. Furthermore, the Office Action does not detail or even mention such desirability. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability for the combination.

Therefore, Applicant respectfully requests reconsideration of the rejection and request allowance of claims 49 and 51.

NEW CLAIM 52

Applicant has added new independent claim 52. Applicant submits that support for the new claim is found in the specification and drawings as originally filed. Independent claim 52 recites "a pressure applicator coupled to the chamber." Applicant submits that none of the cited references teach or suggest this element of claim 52.

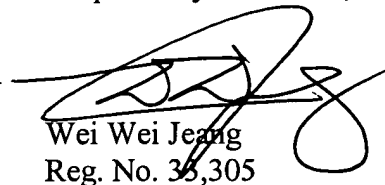
Applicant submits that new claim 52 is in condition for allowance and respectfully requests allowance of new claim 52.

CONCLUSION

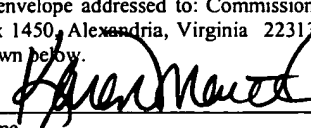
In view of the foregoing, Applicant respectfully requests reconsideration of the application and allowance of all pending claims.

The Commissioner is hereby authorized to charge \$43.00 to Deposit Account 13-4900. Please charge any deficiency payment or credit any overpayment associated with this communication to Deposit Account No. 13-4900 of Munsch Hardt Kopf & Harr, P.C.

Respectfully submitted,

  
Wei Wei Jeang  
Reg. No. 35,305

Date: Dec. 4, 2003  
MUNSCH HARDT KOPF & HARR, P.C.  
4000 Fountain Place  
1445 Ross Avenue  
Dallas, Texas 75202-2790  
Telephone: 214-855-7510  
Facsimile: 214-855-7584

Certificate of Mailing	
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on the date shown below.	
Name	<u></u>
Date	<u>12-4-03</u>